REMARKS

The present amendment is submitted in response to the Office Action dated July 28, 2004, which set a three-month period for response, making this amendment due by October 28, 2004.

Claims 1-10 are pending in this application.

In the Office Action, claims 1-3 and 10 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,013,044 to Hesselbart. Claims 1-3, 8, and 9 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,343,998 to Tarulli et al. Claims 1, 4, and 5 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. Des. 324,554 to McKinney. Claims 6 and 7 were rejected under 35 U.S.C. 103(a) as being unpatentable over McKinney in view of U.S. Patent No. 2,582,347 to Shute.

The Applicant respectfully disagrees that the cited references anticipate or make obvious the subject matter of the present invention as defined in the pending claims.

The reference to Hesselbart describes a golf training apparatus with an upright rack and with a rod 78 attached to the rack by means of a mounting block 88. Thus, the rod 78 is not provided "at a distance to the rack", as defined in claim 1. Furthermore, a mounting block 88 cannot be viewed as an extension.

In addition, the rod 78 in Hesselbart indicates a swing plane. It is not aligned parallel to a desired hitting direction, but, as can be seen form Fig. 1, at an angle to the desired hitting direction. The desired hitting direction is indicated

by the target line bar 30. Therefore, the rod 78 serves a different purpose. Hesselbart provide no suggestion or disclosure as to why it should be arranged as recited in claim 1 of the present application.

The cited patent to Tarulli describes a golf swing practice apparatus, in which the rod 57, 61 is not arranged in a parallel to the hitting direction, but perpendicular to the hitting direction. If the rod 57, 1 were aligned with member 51, the rod formed by members 51, 57, 61 would not be disposed at a distance from the upright rack. The golfer would not be able to swing through underneath the rod. Again, Tarulli provides not disclosure or suggestion regarding why the members 51, 61 should be aligned and why a rod formed in this way should be disposed at a distance from the rack.

Finally, the cited patent to McKinney does not describe a golf training apparatus. Rather, the design only shows an inflatable toy football goal post. The Applicant strongly disagrees that the practitioner of ordinary skill in the art would look to a patent regarding an inflatable toy goal post to develop or improve a golf training apparatus. The toy goal post of McKinney certainly could not be used as a golf training apparatus.

Therefore, because Hesselbart, Tarulli, and McKinney all fail to disclose the above features of claim 1, the rejections under Section 102 must be withdrawn. Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. ***Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.***, 221 USPQ 481, 485 (Fed. Cir. 1984). A prior art reference anticipates a claim

only if the reference discloses, either expressly or inherently, every limitation of the claim. Absence from the reference of any claimed element negates anticipation. ***Row v. Dror***, 42 USPQ 2d 1550, 1553 (Fed. Cir. 1997) (quoting ***Kloster Speedsteel AB v. Crucible, Inc.***, 230 USPQ 81, 84 (Fed. Cir. 1986).

Also, in this amendment, the Applicant has added new claim 11, which defines that the upright rack is made of a rigid material and that the rod is inflatable. Again, claim 11 defines a patentably distinct set of features not shown in any of the cited references.

For the reasons set forth above, the Applicant respectfully submits that claims 1-11 are patentable over the cited art. The Applicant further requests withdrawal of the rejections under 35 U.S.C. 102 and 103 and reconsideration of the claims as herein amended.

In light of the foregoing amendments and arguments in support of patentability, the Applicant respectfully submits that this application stands in condition for allowance. Action to this end is courteously solicited.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,

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